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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/652,751	08/28/2003	Duncan G. Robins	02TN-105705	1758
30764	7590	11/04/2004	EXAMINER	
SHEPPARD, MULLIN, RICHTER & HAMPTON LLP			WELCH, GARY L	
333 SOUTH HOPE STREET			ART UNIT	
48TH FLOOR			PAPER NUMBER	
LOS ANGELES, CA 90071-1448			3765	

DATE MAILED: 11/04/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/652,751	Applicant(s) ROBINS, DUNCAN G.	
	Examiner Gary L. Welch	Art Unit 3765	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 August 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-12 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 28 August 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Objections

1. Claims 4 and 5 are objected to because of the following informalities: It appears that the following changes are required:

Claim 4, line 1: Delete "said" and insert --an--

Claim 5, line 2: Delete "side" and insert --intermediate--

Appropriate correction is required.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-4, 6-10 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Boyer (U.S. 207,708) in view of Fowble (U.S. 617,929).

Boyer discloses a finger grip **A** comprising a tapered sleeve of elastomeric material (i.e., rubber) having a first opening at the end thereof wherein the sleeve is dimensioned to fit over a user's finger with the first opening at the base of the finger (Figure 1) so as to compress and enclosed the finger therein. A plurality of openings **a** are provided over the second knuckle of the finger.

However, Boyer does not disclose that a finger grip having an intermediate opening centered over a second knuckle of the user's finger.

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Fowble teaches a finger grip having an opening **b** positioned above the second knuckle of the finger so as to allow free bending of the user's finger (i.e., does not restrict movement of the finger; Col. 2, lines 54-78).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to replace the plurality of vent openings **a** in the device of Boyer with a single intermediate opening **b** centered over the second knuckle of the user's finger as taught by Fowble in order to allow free bending of the user's finger (i.e., does not restrict movement of the finger; Col. 2, lines 54-78) while simultaneously allowing ventilation to the user's finger.

With regard to claim 2, the sleeve has a second opening positioned at the smaller end (Figure 1).

With regard to claim 3, the second end of the sleeve is closed (Col. 1, lines 17-24) and the sleeve is approximately the length to the finger (Figure 1).

With regard to claim 4, the edge is tapered to fit within a crease between the user's finger and palm.

With regard to claim 6, the sleeve has an outer surface that is textured (Col. 2, lines 11-14).

With regard to claims 7-10 and 12, the invention is disclosed in one or more of the above rejected claims.

4. Claims 5 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Boyer (U.S. 207,708) in view of Fowble (U.S. 617,929) as applied to claims 1 and 8 above, and further in view of Wheeler (U.S. 2,925,605)

Boyer and Fowble disclose the invention substantially as claimed above.

However, they do not disclose that the sleeve has one or more integral tightening elements across the intermediate opening.

Wheeler teaches a finger grip having an intermediate opening for allowing a knuckle of a user's finger to be open in order to prevent the restriction of normal finger movements. An elastic tensioning element 12 is positioned upstream (i.e., nearer to finger base) for tensioning the finger grip about the user's finger for providing a proper fit and preventing the finger grip from accidentally coming off the user's finger.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide an elastic tensioning element as taught by Wheeler to the device of Boyer in view of Fowble in order to ensure that the finger grip is properly secured about the user's finger thereby ensuring that the finger grip will not become lodge during use.

With regard to claim 11, the invention is disclosed above.

Conclusion

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Grimes '975 and Forbes '653 disclose an elastomeric finger protector. Johns '981 and Lambert '165 disclose a full-length finger protector having a textured outer surface. Graham '148 discloses a finger protector having a tapered edge for positioning within a crease between a user's finger and palm. Wanzenried '868 and Wunderlich-Kehm disclose a finger protector having an integral tightening element.


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Glotkin '410 discloses a tapered finger cot having a closed end. Seidel '121, Finegan '970, Remington '987, Held '940 and Keck '385 disclose various finger protectors having intermediate openings.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gary L. Welch whose telephone number is (703) 305-0451. The examiner can normally be reached on Mon-Fri 5:30-3:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John J. Calvert can be reached on (703) 305-1025. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Gary L. Welch
Primary Examiner
Art Unit 3765

glw